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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,490	02/22/2002	Ray W. Hathaway	SMI0029.US	8480

7590 11/26/2002

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EXAMINER

WEBB, SARAH K

ART UNIT

PAPER NUMBER

3731

DATE MAILED: 11/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/080,490	HATHAWAY, RAY W.	
	Examiner Sarah K Webb	Art Unit 3731	
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -- Period for Reply			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.			
<ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 			
Status			
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>22 February 2002</u> .			
2a) <input type="checkbox"/> This action is FINAL .		2b) <input checked="" type="checkbox"/> This action is non-final.	
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.			
Disposition of Claims			
4) <input checked="" type="checkbox"/> Claim(s) <u>1-10</u> is/are pending in the application.			
4a) Of the above claim(s) _____ is/are withdrawn from consideration.			
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.			
6) <input checked="" type="checkbox"/> Claim(s) <u>1-10</u> is/are rejected.			
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.			
8) <input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.			
Application Papers			
9) <input type="checkbox"/> The specification is objected to by the Examiner.			
10) <input type="checkbox"/> The drawing(s) filed on _____ is/are: a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).			
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.			
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.			
Priority under 35 U.S.C. §§ 119 and 120			
13) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).			
a) <input type="checkbox"/> All b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.			
14) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.			
15) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.			
Attachment(s)			
1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)		4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .	
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)	
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .		6) <input type="checkbox"/> Other: _____ .	

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-6 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,102,915 to Bresler et al.

Bresler anticipates all the limitations of the claimed invention. As shown in Figure 1, the device includes a shaft (13) coupled to a hemispherical head (2) that has a plurality of cutting teeth (4) and a viewing window (21). The cutting teeth have a generally partial hemispherical shape, or quarter moon shape, as commonly known in the art. Bresler explains that the openings (21,22) allow the user to check contact between the head (2) and bone in order to ensure a good fit. The windows (21,22) are configured dependent upon the location of the teeth (4); in other words, the windows (21,22) fit between the teeth (4). Figure 3 illustrates that the head (2) includes a plurality of viewing windows (21 and 22) that have at least two different cross-sections, and the windows (21, 22) have continuous compound curvatures. This particular device is used with bones associated with the hip.

Bresler describes the method of use in column 5, which includes placing the device against bone, rotating the cutting head (2), and stopping rotation. Although not explicitly cited, it is understood that the step of checking the contact between bone and

cutting tool (2) through the windows (lines 19-24 of column 4) would occur after the step of stopping rotation of the cutting tool.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US 4,023,572 to Weigand et al. discloses a common acetabular reamer with semi-hemispherical cutting teeth.
- US 5,755,719 to Frieze et al. discloses an acetabular reamer that has a plurality of differently shaped openings.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah K Webb whose telephone number is (703) 305-7554. The examiner can normally be reached on 8am-4:30pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on 703-308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Sarah K Webb
Examiner
Art Unit 3731

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November 18, 2002


Michael Milano
Supervisory Patent Examiner
Art Unit 3700